

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JASON S. KOONCE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No: 3:16-cv-1040
	)	
ILLINOIS CENTRAL RAILROAD	)	
COMPANY (ICRR),	)	<b>JURY TRIAL DEMANDED</b>
	)	
Defendant.	)	

**COMPLAINT**

**COUNT I**  
**LOCOMOTIVE INSPECTION ACT**

COMES NOW the Plaintiff, JASON S. KOONCE, by and through his attorneys, Kujawski Marcus, LLC, and for his Complaint against the Defendant, ILLINOIS CENTRAL RAILROAD COMPANY (ICRR), states as follows:

1. That the jurisdiction of this Court is based upon an Act of Congress of the United States, being the Federal Employers' Liability Act, 45 U.S.C.A., Sections 51 *et. seq.*, and the Locomotive Inspection Act, 49 U.S.C. Section 20701, *et. seq.*, as hereinafter more fully shown.

2. That at all times mentioned herein, the Defendant, Illinois Central Railroad Company (ICRR) (hereinafter referred to as the "Defendant Railroad"), was and is a corporation controlled, operated and maintained in interstate commerce, engaged in transporting interstate commerce between various states by rail including the states of Illinois and Tennessee.

3. That on or about February 11, 2016, or on a date known more certainly to the Defendant Railroad, and at all times mentioned herein, the Plaintiff, Jason S. Koonce, was an employee of the Defendant Railroad and had been for several years prior thereto.

4. That at all times mentioned herein, all or part of the duties of the Plaintiff as such an employee furthered interstate commerce conducted by the Defendant Railroad or in some way directly or substantially affected said commerce.

5. That on or about the above-said date, and at all times relevant herein, the Plaintiff was employed by the Defendant Railroad as a locomotive engineer and as such, was in the performance of his duties in the City of Memphis, Shelby County, Tennessee.

6. That on or about February 11, 2016, or on a date known more certainly to the Defendant Railroad, the Plaintiff was injured on a defective locomotive passageway/step.

7. That at said time and place, the Defendant Railroad, by and through its agents, servants and employees, violated the Locomotive Inspection Act in that the Defendant Railroad failed to provide the Plaintiff with a locomotive and its appurtenances which were in proper condition and safe to operate in the service to which it was put, on its railroad line, by committing one or more of the following acts or omissions in violation of the Act when the locomotive was put in use, to wit:

- (a) Allowed to be used on its railroad line, a locomotive passageway/step, which was defective;

- (b) Violated 49 C.F.R. Section 229.21 in failing to perform a daily inspection, which would have revealed a defective passageway/step;
- (c) Violated 49 C.F.R. Section 229.45 in failing to keep its passageway/step free of conditions that endangered the safety of the crew;
- (d) Violated 49 C.F.R. Section 229.119(c) in failing to provide floors of cabs, passageways and compartments free from an obstruction that created a slipping or tripping hazard; and
- (e) Violated 49 C.F.R. Section 229.119(c) in failing to provide locomotive floors properly treated to provide secure footing.

8. That as a result, in whole or in part, of one or more of the above and foregoing violations of the Locomotive Inspection Act, the Plaintiff, while in the performance of his duties as a locomotive engineer, and in connection with and in the scope and course of his employment, was caused to become severely injured when he was caused to fall on Defendant's locomotive passageway/step causing Plaintiff to sustain severe and permanent injuries to wit: injuries to the muscles, tendons, ligaments, nerves, soft tissues, vertebrae, joints, and discs of the neck, back and spine; injuries to his brain; injuries to the body, knees, legs and extremities; that Plaintiff has sustained pain and suffering in the past, and is reasonably certain to experience pain and suffering in the future as a result of said injuries; that Plaintiff has incurred permanent disfigurement and disability resulting from said injuries; that Plaintiff has incurred a past and future permanent loss of earning capacity; that Plaintiff has become obligated in the past for medical expenses resulting from his injuries and will be obligated in the future to expend large sums of money for necessary medical care, treatment and services; all to Plaintiff's damages.

WHEREFORE, the Plaintiff, JASON S. KOONCE, prays judgment against the Defendant, ILLINOIS CENTRAL RAILROAD COMPANY (ICRR), in an amount in excess of SEVENTY FIVE THOUSAND DOLLARS (\$75,000.00) adequate to fairly and reasonably compensate him for damages sustained herein plus costs of this suit, pre-judgment interest, post-judgment interest, and all other relief deemed appropriate by this Court.

**PLAINTIFF DEMANDS TRIAL BY JURY.**

**COUNT II**  
**FELA - NEGLIGENCE**

COMES NOW the Plaintiff, JASON S. KOONCE, by and through his attorneys, Kujawski Marcus, LLC, and for his Complaint against the Defendant, ILLINOIS CENTRAL RAILROAD COMPANY (ICRR), states as follows:

1. That the jurisdiction of this Court is based upon an Act of Congress of the United States, being the Federal Employers' Liability Act, 45 U.S.C. Sections 51 *et. seq.*
2. That at all times mentioned herein, the Defendant Railroad was and is a corporation controlled, operated and maintained in interstate commerce, engaged in transporting interstate commerce between various states by rail including the states of Illinois and Tennessee.
3. That on or about February 11, 2016, or on a date known more certainly to the Defendant Railroad, and at all times mentioned herein, the Plaintiff, Jason S. Koonce, was an employee of the Defendant Railroad and had been for several years prior thereto.

4. That at all times mentioned herein, all or part of the duties of the Plaintiff as such an employee furthered interstate commerce conducted by the Defendant Railroad or in some way directly or substantially affected said commerce.

5. That on or about the above-said date, and at all times relevant herein, the Plaintiff was employed by the Defendant Railroad as a locomotive engineer and as such, was in the performance of his duties in the City of Memphis, Shelby County, Tennessee.

6. That on or about February 11, 2016, or on a date known more certainly to the Defendant Railroad, the Plaintiff was injured on a defective locomotive step/walkway/platform.

7. That at said time and place, the Defendant Railroad, by and through its agents, servants and employees, negligently and carelessly committed one or more of the following acts or omissions to wit:

- (a) Violated 49 C.F.R. Section 229.21 in failing to perform a daily inspection, which would have revealed a defective passageway/step;
- (b) Violated 49 C.F.R. Section 229.45 in failing to keep its passageway/step free of conditions that endangered the safety of the crew;
- (c) Violated 49 C.F.R. Section 229.119(c) in failing to provide floors of cabs, passageways, steps and compartments free from an obstruction that created a slipping or tripping hazard;
- (d) Violated 49 C.F.R. Section 229.119(c) in failing to provide locomotive floors properly treated to provide secure footing;
- (e) Failed to provide Plaintiff with a reasonably safe place within which to work;

- (f) Failed to inspect, maintain and repair its locomotive passageway/step; and
- (g) Allowed unsafe practices to become the common practice.

8. That as a result, in whole or in part, of one or more of the above and foregoing violations of the Locomotive Inspection Act, the Plaintiff, while in the performance of his duties as a locomotive engineer, and in connection with and in the scope and course of his employment, was caused to become severely injured when he was caused to fall on Defendant's locomotive passageway/step causing Plaintiff to sustain severe and permanent injuries to wit: injuries to the muscles, tendons, ligaments, nerves, soft tissues, vertebrae, joints, and discs of the neck, back and spine; injuries to his brain; injuries to the body, knees, legs and extremities; that Plaintiff has sustained pain and suffering in the past, and is reasonably certain to experience pain and suffering in the future as a result of said injuries; that Plaintiff has incurred permanent disfigurement and disability resulting from said injuries; that Plaintiff has incurred a past and future permanent loss of earning capacity; that Plaintiff has become obligated in the past for medical expenses resulting from his injuries and will be obligated in the future to expend large sums of money for necessary medical care, treatment and services; all to Plaintiff's damages.

WHEREFORE, the Plaintiff, JASON S. KOONCE, prays judgment against the Defendant, ILLINOIS CENTRAL RAILROAD COMPANY (ICRR), in an amount in excess of SEVENTY FIVE THOUSAND DOLLARS (\$75,000.00) adequate to fairly and reasonably compensate him for damages sustained herein plus costs of this suit, pre-judgment interest, post-judgment interest, and all other relief deemed appropriate by this Court.

**PLAINTIFF DEMANDS TRIAL BY JURY.**

Respectfully submitted,

**KUJAWSKI MARCUS, LLC**

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